# Minnesota State Senator Tony Lourey

## An Interview with The Civic Caucus

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## Present

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## Introduction

Minnesota DFL State Senator Tony Lourey lives in Kerrick Township in Pine County and represents Senate District 11. He was first elected to the Senate in November 2006. He is a farmer, a public policy consultant and an owner, until a year ago, of the Askov American newspaper. He served as township supervisor in Kerrick Township before being elected to the Legislature. He is a member of the Minnesota Sustainable Farming Association.

Senator Lourey is chair of the Health and Human Services Division of the Senate Finance Committee. He is a member of the Senate Finance Committee and of the Higher Education and Workforce Development Division of the Finance Committee. He also serves on the Health, Human Services and Housing Committee and the Higher Education and Workforce Development Committee. He is chief author of Senate File (SF) 1, the Minnesota Insurance Marketplace Act.

Lourey has a bachelor's degree from the University of Minnesota and a law degree from the William Mitchell College of Law in St. Paul.

## Summary

State Sen. Tony Lourey is chief author of Senate File (SF) 1, the Minnesota Insurance Marketplace Act. It creates the Minnesota Insurance Marketplace as a state health insurance exchange under the federal Patient Protection and Affordable Care Act (ACA). The bill must be passed by the end of March to meet federal timelines for establishing an exchange. Lourey contends that a Minnesota-based exchange will be a better model and less expensive than a federally designed exchange. Lourey says key components of the bill include: (1) Setting up a seven-member board in the executive

branch that will run the exchange; (2) Setting a clear prohibition of direct conflict-of-interest for board members governing the exchange; (3) Providing, through the exchange, side-by-side comparisons of health insurance plans, so consumers can choose plans based on cost and quality; (4) Giving the board the ability to select only health insurance plans for the exchange that are in the interest of consumers to ensure better value; (5) Providing clear tools for preventing adverse selection and ensuring a stable marketplace for consumers; and (6) Providing for payment to navigators and assisters to better serve the uninsured and underserved populations using the exchange. Estimates are that 1.3 million Minnesotans will seek coverage through the exchange by 2016.

## Background

For a more detailed look at SF1, the Minnesota Insurance Marketplact Act, see this Senate Counsel summary.

For more background on Minnesota's developing health insurance exchange, see the July 27, 2012, Civic Caucus interview with Julie Brunner , director of the Minnesota Council of Health Plans; and the Aug. 17, 2012, interview with April Todd-Malmlov , executive director for the Minnesota Health Insurance Exchange.

## Discussion

**State Sen. Tony Lourey is chief author of Senate File (SF) 1, the Minnesota Insurance Marketplace Act.** It creates the Minnesota Insurance Marketplace as a state health insurance exchange under the federal Patient Protection and Affordable Care Act (ACA). The bill must be passed by the end of March to meet federal timelines for establishing an exchange. His bill has been heard by nine separate committees and is currently awaiting a debate and vote on the Senate floor. He said only one senator has not heard the bill in committee.

Lourey commented that the fact that his bill is SF1 is "a statement by our leadership that it's our number one priority as a caucus to have a state-based health insurance exchange that will work for consumers and industry." He said he's trying to listen to all voices so the exchange will have the right balance to work for everyone. "SF1 represents the nuts and bolts of the exchange."

"The exchange is not true health care reform," Lourey stated. "This is mostly insurance reform. Our goal is to make sure everyone has access to affordable and valuable health insurance. It will set a good foundation to build true, meaningful health care reform. Right now we're rebuilding the insurance industry to make sure people have access to the health care system. I'm a health care guy at the end of the day."

**The exchange gives individual consumers a new way of comparing insurance products.** "The value of the exchange is that individual consumers can do, finally, an apples-to-apples comparison of insurance products and understand how they're going to meet their needs in a way that's never been available before," Lourey said. "The exchange, to be viable, needs to be competitive and attract individuals with and without subsidies and small businesses to purchase products."

**Insurance plans should compete on cost and quality.** When asked about competition, Lourey said, "I want the plans to be competing on the quality and cost measures they're able to provide. The prices are going to be set based on the actuarial charts. The board is going to negotiate on the models we're looking for and the criteria for participation. There will be a rate approval process with the Department of Commerce and it'll need to be actuarially sound."

Responding to a question about protecting consumers, Lourey said, "We're going to empower consumers to have cost and quality information they've never had before. We're going to trust them to make good decisions. We're not going to guide them, but we're going to make sure they have the unbiased information they need to make good decisions, like consumers in other markets have, and we're going to make sure the products available are in the interest of consumers. There are products that are not really in the interest of consumers and of our health care system."

"In Minnesota we have a very, very good provider network, compared to the rest of the country, that operates in a very narrow band of cost and quality," Lourey continued. "But there's certainly work to be done in driving additional cost and quality measures. We need to empower consumers and inspire providers to do better. That's one of the most powerful tools: the pride and competition effect."

**Estimates show that 1.3 million Minnesotans will seek coverage through the exchange by 2016.** Lourey said 700,000 of those are from Medicaid programs. Another 200,000 are estimated to come to the exchange simply because it's a good model, even though those consumers aren't eligible for public subsidies and are not required to use the exchange.

Lourey estimated that through the exchange 300,000 Minnesotans who are today uninsured will find a product for themselves, along with the ability to access the care they need. That figure does not include the federal Basic Health Plan (BHP), which will be a new funding source for MinnesotaCare in 2015.

"That BHP option at the federal level is incredibly important to us," Lourey said. "We'll be able to utilize the BHP funding in 2015 to improve MinnesotaCare for our low-income, working Minnesota families. That's a huge deal. We'll have a 12-month bridge where we'll have to keep MinnesotaCare going with the current funding. We're not going to dump MinnesotaCare families into the exchange, because we know it will move them backwards in their access to affordable coverage."

He said 500,000 people in Minnesota are uninsured right now. It's estimated that 340,000 people will find insurance through the exchange and the BHP. That will still leave 160,000 not covered.

**SF1 creates the exchange as a seven-member board in the executive branch.** Six members will be appointed by the governor and confirmed by the Senate:

- Three will represent consumer interests: one representing the interests of individual consumers eligible for individual market coverage; one representing individual consumers eligible for public health care program coverage; and one member representing small employers.
- Three will represent the health care industry: one representing the areas of health administration, health care finance, health plan purchasing and health care delivery systems; one representing the areas of public health, health disparities, public health care programs and

the uninsured; and one representing health policy issues related to the small group and individual markets.

The seventh member will be the state commissioner of human services (currently Lucinda Jesson) or the commissioner's designee.

**Conflict-of-interest rules are critical to the exchange.** "A core component of the bill is clear conflict-of-interest rules to govern the exchange," Lourey said. "I think it's critical to the functioning of the exchange, because it has to attract individuals to come to the exchange to buy their insurance. If we allow conflict of interest on the board, it goes directly against consumer confidence in that board."

"We want expertise on this board and there are experts who don't have a direct financial conflict of interest at the time they're serving," Lourey continued. "The public is keenly aware of these things and wants to know which hat an individual is wearing when they're asked to make a decision about something that's as important as what insurance products will be available."

**The ability of the board to select only health insurance plans that are in the interest of consumers is a core component of the exchange.** Lourey said there is a federal requirement for a two-step process in order to be certified by the exchange as a qualified health plan able to be sold on the exchange. Plans must:

Step 1: Meet minimum federal and state certification requirements; and,

Step 2: Be determined to be in the interest of consumers.

He said the bill empowers the board to adopt rules about additional criteria it wants the carriers to provide in their plans to ensure they are in the interest of consumers. The rules have to explain the measurement those criteria will be used against, so that carriers, when they're designing their plans, can understand the target they're trying to hit. "At the end of the day, the exchange has the ability to select the plans that are in the interest of consumers. I feel that's important to protecting the public and making sure this exchange brings something of value to our system."

"I've been very, very protective of that purchasing authority on behalf of the exchange," Lourey continued. "That's a core component to making sure this exchange works and acts as more than a website." He said six of the 10 states that have exchange legislation have made selection a key part of their exchanges, as well.

**Insurance carriers are questioning the conflict-of-interest and smart purchasing provisions.** In response to a question, Lourey said the bill is getting the most pushback on the conflict-of-interest and purchasing provisions. He said most of the pushback comes from insurance carriers, who say we'd be stifling innovation if we prevent insurance products from being brought on the market. The carriers say they are going to spend money developing their products and having their plan reviews and rate reviews done and then their developed plans could be barred from access to the exchange. "They ask me, 'What's the incentive to develop these things?'"

Responding to a follow-up question, Lourey asserted that some products are not in the interest of consumers. People are buying them because of low premiums, only to find that it's a trap. "They have high deductibles that people can't meet," he said. "The plan's structure is only good if you stay healthy."

"But," Lourey continued, "giving the board the authority to select plans able to sell their products based on value and in the interest of consumers is very different from the exercise of that authority. Massachusetts has selection built into theirs. They've used it to drive some value out of the market, but they've never had to exercise it by excluding a plan from their market. They've asked for a better product and they've gotten it. The authority can be used to drive better value out of that market, whether you ever exercise that authority or not."

**The Department of Human Services has demonstrated the importance of having tools to leverage value from the exchange.** He mentioned that for the last few years, the Department of Human Services has used competitive bidding and profit and growth caps on at least some managed care plans that run its public programs. "They've used that leverage to drive value out of the market," he said. "Use of those tools produced a $1 billion savings for the upcoming biennium. It's a good demonstration of the need to have some tools to leverage value."

**Minnesota's earlier health insurance exchange failed because of adverse selection.** An interviewer asserted that an earlier Minnesota attempt at something like an exchange failed because of adverse selection - a situation in which people at higher risk buy and use more insurance, thus raising the cost of premiums, incenting lower risk enrollees to leave the market. He said the bill provides clear tools for preventing adverse selection. In SF1, the exchange is able to set certification requirements inside the exchange to prevent adverse selection. "That's a stopgap," he said. "The most effective tool that we just don't have time to get past the Legislature by March is to adopt the same rules inside and outside the exchange." "It is our intent to pass a bill, which was recently introduced, to do just that," Lourey stated. "It will be another difficult task to get it through the Legislature."

**A Minnesota-based exchange will be superior to a one-size-fits-all federally designed exchange.** "We have an opportunity to do it the Minnesota way," an interviewer commented. "We want to inform consumers and give them incentives. They'll choose on quality, but they won't choose on cost unless they have incentives. Can we get that system up and going before the feds start to impede us? They'll ignore us, if we don't have it running. It's just talk. If the exchange is running, the whole country will come here to see this thing that measures provider quality and cost. We have all the measures we need. Right now Minnesota Community Measurement has a measure to tell us what providers are costing."

Lourey replied, "We say in SF1 that we'll use the best cost and quality measures that are available in Minnesota. Maybe it'll be Minnesota Community Measurement for a while." He also discussed the Provider Peer Grouping (PPG) measurements, which he said are going through a second round of improvements to give providers a better look at how they perform individually.

He said some people are asking why Minnesota is setting up its own exchange rather than letting the feds come in with a federal exchange.

"Minnesota has been a national leader in health care and health care reform for decades," he said. "We need to have a Minnesota-based exchange. It's a lot less expensive. We can build a better model for a lot less money."

The federal exchange, he continued, is a one-size-fits-all system and is going to be expensive. He said the Minnesota exchange would be financed at the start by holding back 3.5 percent from the premiums for products sold on the exchange. By the end of 2016, it's estimated the holdback can be lowered to two percent of premiums.

"With a Minnesota-based exchange," Lourey said, "we'll have a better one that's built on Minnesota's history and tradition of being a leader in health care. It's going to be significantly less expensive and drive better value out of the insurance marketplace than if we let the feds come in. In my book, it's a no-brainer that we've got to get through this. It's hard work, but it's important work."

**The exchange will be one tool to address health care problems in Greater Minnesota.** An interviewer asked if the exchange would work in Minnesota, a state that's divided into urban and rural. She also asked if it's good that large health systems are spreading out across the state.

"Making sure we have sufficient provider networks to cover the whole state is really critical," Lourey said. "The minimum certification requirements are why some of our Greater Minnesota networks are not as robust as they should be. These are going to be phenomenal tools to help address longstanding problems we've had outside the metro area."

Care in greater Minnesota is hampered by loss of primary care physicians because of the medical school debt load on students, he continued. They're going into specialties instead of primary care. "The exchange could be one of tools to try to combat some of those dynamics that we're worried about."

**People will be available to help consumers use the exchange.** In response to a question, Lourey said there would be a new group of people paid to help consumers on the exchange navigate the system to find the plan that best meets their needs. He said insurance agents and brokers will operate both outside and inside the exchange. The estimate is that 75 percent of small businesses using the exchange will still be using an agent and a broker. About one-third of individuals will use an agent or a broker.

But there's still a large population that isn't going to have that, he continued. "The website is available. There are call centers. There are assisters and navigators. Our Community Action Partnership (CAP) agencies love the concept of being able to be navigators. They can help people understand how to use the tool in an efficient manner. The Urban League, many counties and the Minnesota Aids Network have come forward and would like to engage in that role. We estimate that about one-third of people not using a broker would want to use a navigator or assister." He said the bill sets aside $105 per enrollee to pay for the navigators and assisters.